


OLC 81-0297/12

April 29, 1981

MEMORANDUM FOR: Director of Central Intelligence
VIA: Director, DCI/DDCI Executive Staff
FROM: Legislative Counsel
SUBJECT: Item for Discussion with the Secretary
of Defense

You may wish to raise with Secretary Weinberger the fact that the Department of Defense has not yet responded to your legislative proposal to amend the Freedom of Information Act so as to exclude records created or maintained by the Central Intelligence or National Security Agencies. Talking points on this issue are attached


Frederick P. Hitz

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Attachment:
As Stated

Legislative Relief from the FOIA

-- The Department of Defense has not yet responded to the Office of Management and Budget's request for views on the DCI's proposal to amend the FOIA to exclude files created or maintained by CIA or NSA.

-- The delay appears to be resulting from the desire of some DOD components to have the legislative proposal reformulated so as to include all DOD intelligence entities.

-- Such a reformulation would make the proposal unachievable politically.

-- It is essential that the Administration concentrate its initial FOIA efforts on the most pressing problems, and on the areas in which the best case can be made for quick and decisive remedial action.

-- Only a total exclusion of records created or maintained by CIA/NSA from all of the Act's requirements can eliminate the need to search and review records in response to FOIA requests. It is this elimination which is crucial to ending the wasteful and debilitating diversion of resources and critically needed skills, eliminating the growing danger of court-ordered release of properly classified information, and regaining the confidence of human sources and foreign intelligence services.

-- The case for a total exclusion of records created or maintained by other intelligence entities is much less convincing. The full support of the Department of Defense for the DCI's legislative proposal is essential now. Problems experienced by DOD intelligence entities other than NSA can best be dealt with in the context of the comprehensive FOIA amendment proposal now being formulated by the Department of Justice.

Mr. McMahon said this is what the Director asked for from him. The "I" in the paper means DCI.

He probably will have additional items tomorrow. He wanted to get this in today because the DCI had asked for it.

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